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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,753	03/26/2004	Lawrence P. Sydow	7005-67235	5270

24197 7590 09/21/2004  
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EXAMINER


GRILES, BETHANY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,753	<b>Applicant(s)</b> SYDOW, LAWRENCE P.	
	<b>Examiner</b> Bethany L. Griles	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-23 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 24 is/are rejected.
- 7) ☒ Claim(s) 3-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsu (US4205476).

Regarding claim 1, Hsu discloses an apparatus for dispensing fish attractant comprising: a body comprising first 4 and second 2 housing sections, the first and second housing sections being detachably interconnected (via element 3), the body comprising a fish attractant receiver; at least one fish attractant dispersing opening (col 2, line 11 describes "orifices") communicating from the receiver and to the exterior of the housing; the first and second housing sections comprising respective first and second passageway defining members(the passageway exists inherently on the interior of the structure), the passageway defining members interfitting with one another when the first and second housing sections are interconnected to define a passageway from the exterior of the body, through the body, and to the exterior of the body (refer to figure 1 for specific orientation of parts 4 and 2 and their interconnected nature).

Regarding claim 2, Hsu discloses the apparatus according to claim 1 wherein the first and second housing sections are pivotable relative to one another (refer to element

3) when the first and second housing sections are interconnected, the apparatus comprising a closure 21 which is shiftable as the first and second housing sections pivot relative to one another from a closed position wherein the closure closes the at least one fish attractant dispersing opening and to at least one second open position wherein the closure at least partially does not block the at least one fish attractant dispersing opening ("orifices") such that the at least one fish attractant dispersing opening is at least partially open (refer to figure 3).

Regarding claim 24, Hsu discloses an apparatus for dispersing fish attractant comprising: housing means for containing fish attractant; means for controlling the extent fish attractant dispersing openings are open to disperse fish attractant from the housing means (by controlling the size of the openings) and through the fish attractant dispersing openings; and indicia means for visually indicating the extent to which the fish attractant dispersing openings are open (a user could look into the openings to observe the level of the attractant within the body 4, 2).

#### ***Allowable Subject Matter***

Claims 3-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-23 are allowed.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller US2769268; Buseti WO89/07393; Larkin USWO9001264;

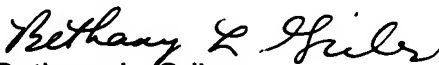
Art Unit: 3643

Llewellyn US2295042; Stark US2465127; Merton US2844907; Ware US6035574;  
Gilbert US6588138.

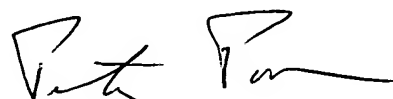
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Bethany L. Griles  
Examiner  
Art Unit 3643

blg

  
Peter M. Poon  
Supervisory Patent Examiner  
9/17/04